



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0091; Notice 1]

Navistar, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Navistar, Inc., (Navistar), has determined that certain model year (MY) 2022-2023 IC Bus school and commercial buses do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 205, Glazing Materials. Navistar filed two noncompliance reports dated November 17, 2021. Navistar petitioned NHTSA on December 16, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Navistar's petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- **Mail:** Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- **Hand Delivery:** Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at https://www.regulations.gov by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

FOR FURTHER INFORMATION CONTACT: Jack Chern, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-0661.

SUPPLEMENTARY INFORMATION:

I. Overview: Navistar determined that side window glazing supplied by Custom Glass Solutions and installed on certain MY 2022-2023 IC Bus school and commercial buses do not fully comply with paragraph S6.2 of FMVSS No. 205, *Glazing Materials* (49 CFR 571.205).

Navistar filed an original noncompliance report dated November 17, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Navistar petitioned NHTSA on December 16, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that they believe this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Navistar's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 1,289 MY 2022-2023 IC Bus CE and EV school buses, manufactured between July 26, 2021, and October 7, 2021, and approximately 4 MY 2022 IC Bus CE commercial buses manufactured between August 26, 2021, and September 14, 2021, are potentially involved.

III. Noncompliance: Navistar explains that noncompliance is that the two side pieces of the flat three-piece windshield installed in the subject vehicles was incorrectly marked as "AS2" when it should have been marked as "AS1" and therefore, does not comply with paragraph S6.2 of FMVSS No. 205.

IV. Rule Requirements: Paragraph S6.2 of FMVSS No. 205 includes the requirements relevant to this petition. A prime glazing manufacturer marks its glazing with the AS number required by section 7 of ANSI/SAE Z26.1-1996 (incorporated by reference, see § 571.5).

V. Summary of Navistar's Petition: The following views and arguments presented in this section, "V. Summary of Navistar's Petition," are the views and arguments provided by Navistar.

They have not been evaluated by the Agency and do not reflect the views of the Agency.

Navistar describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Navistar explains that there is “no potential safety consequence” because the side window glass supplied by Custom Glass Solutions (CGS) in the subject vehicles meets the AS1 requirements as specified by FMVSS No. 205 even though it was incorrectly marked as AS2. Navistar says that other than the incorrect marking, “the material itself is fully compliant to the standard.” Navistar included with its petition the test report confirming that the glazing material itself is actually meeting the requirements of AS1 glazing, and that just the labeling was incorrect.

Navistar says that despite the incorrect marking, “the correct part was sold and shipped to Navistar for use as windshields.” According to Navistar, the subject noncompliance “could not result in the wrong replacement part ordered” because the part is ordered using “its unique part number and not the ‘M number’ (which corresponds to the glass construction from which the part is fabricated.”

Navistar concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Navistar no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the

prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2022-26507 Filed: 12/6/2022 8:45 am; Publication Date: 12/7/2022]